IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.10225 of 1998

Dated: 10-08-2007

Between:

1. Pokuri Hanumantha Rao, s/o Thirupathaiah and 3 others.

... Petitioners

and

1. The Commissioner,
   Survey, Settlements and Land Records,
   Andhra Pradesh,
   Hyderabad and 7 others.

... Respondents

ORDER:

Questioning the order dated 17-02-1998 passed by 1st respondent vide CSS & LR's Case No.P2/1002/96 and the Order dated 20-07-2006 passed by 2nd respondent vide R.P.No.37/88/A2, reversing the order dated 21-12-1997 passed by 3rd respondent vide D.Dis.No.1450/87/PKM, the present writ petition has been filed.

2. Petitioners state that their grandfather late Pokuri Ramaswamy purchased the lands in an extent of Acs.13-36 cents in Sy.Nos.16 and 17

situated at Akkambapuram village, Darsi Taluk, Prakasam District under a registered sale deed dated 20-06-1945 and since then they have been in peaceful possession and enjoyment of the said lands. While so, in 1987 respondent Nos.5 to 8 tried to disturb their possession claiming that they were issued D-form pattas. They further state that on coming to know the same, they filed a petition to condone the delay in filing a claim petition before 3rd respondent – Settlement Officer, Nellore for issuing ryotwari pattas as provided for under Section 11 of the Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, 'the Act') and 3rd respondent after affording ample opportunity to 4th respondent – Mandal Revenue Officer condoned the delay in filing the claim petition. They also state that 4th fourth respondent without contesting the case on merits filed a revision petition before 2nd respondent – Director of Settlements. In the said revision, respondent Nos.5 to 8 herein were got themselves impleaded as respondents and 2nd respondent after a lapse of eight years disposed of the revision, setting aside the order passed by 3rd respondent. Assailing the said order, they filed revision petition before 1st respondent – Commissioner, Survey, Settlements and Land Records, who upheld the orders passed by 2nd respondent. Hence, they approached this Court and filed the present writ petition.

3. Heard learned counsel for the parties.

4. No doubt, the delay in filing a claim petition for grant of ryotwari patta under Section 11-A of the Act is unduly wrong. But the authorities i.e., the Director of Settlements and the Commissioner of Survey, Settlements and Land Records ought to have accepted the explanation offered by petitioners. In fact, the original authority i.e. the Settlement Officer, before whom the said application for grant of ryotwari pattas is

pending, only after being satisfied had condoned the said delay. By virtue of condoning the delay it cannot be said that petitioners are entitled for grant of ryotwari pattas. Again it is a matter for the Settlement Officer to decide as to whether petitioners are entitled for grant of ryotwari pattas or not. Hence, this Court is of the view that the orders passed by the 2nd respondent as confirmed by 1st respondent are liable to be set aside.

5. Accordingly, the writ petition is allowed setting aside the orders passed by 2nd respondent as confirmed by 1st respondent. The 3rd respondent – Settlement Officer, Nellore is hereby directed to hold an enquiry and decide as to whether petitioners are entitled for grant of any ryotwari patta. Before doing so, he may afford sufficient opportunity to petitioners as well as un-official respondents, to produce any documentary evidence etc. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.10-08-2007
GLV